

Antarctica, the Director may designate such substance a banned substance.

(b) If the Director determines that a substance is liable to create a hazard to health or the environment if improperly treated or processed, stored, transported, or disposed of, the Director may designate such substance a designated pollutant.

(c) If the Director determines that a substance previously designated a banned substance no longer displays the characteristics described in paragraph (a) of this section, the Director may remove such substance from the list of banned substances (to the extent consistent with the provisions of the Protocol), but if the Director determines that such substance has the characteristics described in paragraph (b) of this section, it shall be redesignated a designated pollutant.

(d) If the Director determines that a substance previously designated a designated pollutant no longer displays the characteristics described in paragraph (b) of this section, the Director may remove such substance from the list of designated pollutants.

(e) In making the determinations referred to in paragraphs (a) through (d) of this section, the Director shall take into account all relevant new information obtained through monitoring activities or otherwise.

§ 671.15 Publication of preliminary determination

Prior to any designation or redesignation of substances pursuant to § 671.14 (including removal of such substances from lists of banned substances or designated pollutants), the Director shall publish notice in the FEDERAL REGISTER of any proposed designation or redesignation, including the basis therefor. The notice shall invite the submission by interested parties, the Environmental Protection Agency and other federal agencies, within 30 days after the date of publication of notice, of written data, comments, or views with respect to such action.

§ 671.16 Designation and redesignation of pollutants

After review of any comments or suggestions received from interested parties, the Environmental Protection

Agency and other Federal agencies pursuant to § 671.15, the Director will make a final determination to designate and redesignate various substances as set forth above. Within 10 days after the date of such final determination, the Director shall publish notice of any action taken in the FEDERAL REGISTER. Such action shall become effective no earlier than thirty days following publication of notice.

Subpart F—Cases of Emergency

§ 671.17 Cases of emergency.

The provisions of this part shall not apply in cases of emergency relating to the safety of human life or of ships, aircraft or other equipment and facilities of high value, or the protection of the environment. Notice of any acts or omissions resulting from such emergency situations shall be reported promptly to the Director, who shall notify the Treaty parties in accordance with the requirements of the Treaty and the Protocol, and publish notice of such acts or omissions in the FEDERAL REGISTER.

PART 672—ENFORCEMENT AND HEARING PROCEDURES

Sec.

672.1 Hearing procedures—Scope of these rules.

672.2 Definitions.

672.3 Powers and duties of the Director; Presiding Official; Office of Polar Programs.

672.4 Filing, service, and form of pleadings and documents.

672.5 Filing and service of rulings, orders, and decisions.

672.6 Appearances.

672.7 Issuance of complaint.

672.8 Answer to the complaint.

672.9 Motions.

672.10 Default order.

672.11 Informal settlement; consent agreement and order.

672.12 Prehearing conference.

672.13 Accelerated decision; decision to dismiss.

672.14 Scheduling the hearing.

672.15 Evidence.

672.16 Objections and offers of proof.

672.17 Burden of presentation; burden of persuasion.

672.18 Filing the transcript.

672.19 Proposed findings, conclusions, and order.

§ 672.1

672.20 Initial decision.

672.21 Appeal from or review of interlocutory orders or rulings.

672.22 Appeal from or review of initial decision.

672.23 Final order on appeal.

672.24 Maximum civil monetary penalties for violations.

AUTHORITY: 16 U.S.C. 2401 *et seq.*, 28 U.S.C. 2461 note.

SOURCE: 54 FR 7132, Feb. 16, 1989, unless otherwise noted. Redesignated at 58 FR 34718, June 29, 1993.

§ 672.1 Hearing procedures—Scope of these rules.

(a) These hearing rules govern all adjudicatory proceedings for the assessment of civil penalties or imposition of other sanctions pursuant to the Antarctic Conservation Act of 1978, 16 U.S.C. 2407; 2404(f); 2401-2412; and

(b) Other adjudicatory proceedings that the Foundation, in its discretion, determines are appropriate for handling under these rules, including proceedings governed by the Administrative Procedure Act requirements for "hearings on the record." 5 U.S.C. 554 (1982).

(c) Questions arising at any stage of the proceeding which are not addressed in these rules shall be resolved at the discretion of the Director or Presiding Officer.

§ 672.2 Definitions.

(a) Throughout these rules, words in the singular also include the plural, and words in the masculine gender also include the feminine, and vice versa.

(b) *Act* means the particular statute authorizing the initiation of the proceeding.

(c) *Administrative Law Judge* means an Administrative Law Judge appointed under 5 U.S.C. 3105 (see also Pub. L. 95-251, 92 Stat. 183).

(d) *Complainant* means any person authorized to issue a complaint on behalf of the Agency to persons alleged to be in violation of the Act. The complainant shall not be the Presiding Officer or any other person who will participate or advise in the decision.

(e) *Complaint* means a written communication, alleging one or more violations of specific provisions of the Act, Treaties, NSF regulations or a permit promulgated thereunder, issued

45 CFR Ch. VI (10-1-05 Edition)

by the complainant to a person under this subpart.

(f) *Consent Agreement* means any written document, signed by the parties, containing stipulations or conclusions of fact or law, and a proposed penalty, revocation or suspension of a permit, or other sanction.

(g) *Director* means the Director of the National Science Foundation (NSF) or his delegatee.

(h) *Final Order* means (1) an order issued by the Director after an appeal of an initial decision, accelerated decision, a decision to dismiss, or default order, or (2) an initial decision which becomes a final order.

(i) *Foundation, Agency, or NSF* means the National Science Foundation.

(j) *Hearing* means a hearing on the record open to the public and conducted under these rules.

(k) *Hearing Clerk* is the person with whom all pleadings, motions, and other documents required under this subpart are filed.

(l) *Initial Decision* means the decision issued by the Presiding Officer based upon the official record of the proceedings.

(m) *Party* means any person that participates in a hearing as complainant, respondent, or intervenor.

(n) *Permit* means a permit issued under section 5 of the Antarctic Conservation Act of 1978, 16 U.S.C. section 2404.

(o) *Person* includes any individual, partnership, association, corporation, and any trustee, assignee, receiver or legal successor thereof; any organized group of persons whether incorporated or not; and any officer, employee, agent, department, agency or instrumentality of the Federal Government, of any State or local unit of government, or of any foreign government.

(p) *Presiding Officer* means the attorney designated by the Director to conduct hearings or other proceedings under this subpart.

(q) *Respondent* means any person proceeded against in the complaint.

(r) Terms defined in the Act and not defined in these rules of practice are used consistent with the meanings given in the Act.